

REMARKS

Upon entry of the present amendment, claims 1 and 5 will have been amended and new claims 22-27 will have been submitted for consideration by the Examiner. In view of the herein contained remarks, together with the amendments set forth above, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection set forth in the above-mentioned Official Action.

In the outstanding Official Action, the Examiner the rejected claims 1 and 5 under 35 U.S.C. § 102(b) as being anticipated by STEINHUBER (U.S. Patent No. 6,204,966). Applicant respectfully traverses the above rejection at least for the reasons set forth in the previous Response filed in the present application on February 21, 2006, as well as based on the remarks set forth herein below and the above-set forth amendments to the language of claims 1 and 5.

The Examiner indicated that claims 9-19 are allowed. The Examiner further indicated claims 2-4 and 6-8 as being objected to for being dependent upon a rejected-base claim. However, the Examiner indicated that these claims would be allowable if rewritten into independent form including all limitations of the base claim and any intervening claims.

Applicant notes with appreciation the Examiner's indication of allowability and allowable subject matter in the above-noted claims. Applicant obviously acquiesces in the Examiner's indication but respectfully submits that all the claims in the present application are in condition for allowance for reasons as will be set forth hereinbelow as well as for the reasons set forth in the previously filed Response in the present application.

Applicant notes the Examiner's statement of reasons for allowance with respect to the allowable and objected to claims. In this regard, while Applicant does not disagree with the features noted by the Examiner, Applicant further points out that each of the claims in the present application sets forth a combination of features and that the patentability of each individual claim is based on the particular totality of features recited therein, in addition to those particular features identified and enumerated by the Examiner. Accordingly, the reasons for allowance and for the indication of allowable subject matter should not be limited to those particularly noted by the Examiner.

As noted above, the Examiner indicated that claims 2-4 and 6-8 would be allowable if rewritten into independent form including all the limitations of the base claim and any independent claims. In this regard, and without in any manner acquiescing in the propriety of the Examiner's rejections of claims 1 and 5 (which, for reasons set forth below, will be shown to be improper), Applicant has rewritten claims 2-4 and 6-8 in independent form as claims 22-27. Accordingly, at least for the reasons set forth by the Examiner, these claims should all be in condition for allowance, and Applicant respectfully requests an indication to such effect in due course.

As noted above, Applicant respectfully traverses the Examiner's rejection of claims 1 and 5 as anticipated by STEINHUBER. In this regard, Applicant notes that he has set forth a full and adequate discussion of the shortcomings and deficiencies of the STEINHUBER reference with respect to the recitations of the claims in the present application in the Response filed in the present application on February 21, 2006. Applicant submits that in the interest of brevity the above-noted discussion will not be repeated but is explicitly incorporated herein by reference. All of the statements made

therein accurately and properly characterize the disclosure of the STEINHUBER reference and note the deficiencies thereof with respect to the combination of features recited in Applicant's claims.

In response to Applicant's discussion of the STEINHUBER reference, the Examiner notes (in the "Response to Arguments"), that the control slot 43 is rotatable and that the circular disk to which the control slot is attached is separately rotatable to adjust the inclination of the optical axes. The Examiner asserts that the control slot is rotatable in the manner shown in Fig. 13 with an axis extending into the page and the control disk, to adjust the inclination, would be rotatable in the perpendicular direction (an axis extending horizontally across the page).

Applicant respectfully traverses the above interpretation of the STEINHUBER references and submits that it is not supported by the disclosure thereof. The discussion of Figs. 13 and 14 to which the Examiner makes reference does not in any way indicate that the rotational axis of the control slot and the circular disk are perpendicular to each other. In this regard, Applicant first notes that neither the control slot nor the circular disk is identified in Figs. 13 or 14. Thus, the Examiner does not have any basis to support his position.

Moreover, the written description of Figs. 13 and 14 merely indicate that the control slot is pivotal in its plane and is provided in a circular disk which itself pivots in (or on) the upper cheek of the member 39. As can clearly be seen in Figs. 8, 9 and 10, the slot 43 in upper cheek 41 as well as any circular disk provided therein are not required to rotate about perpendicular axes. As can clearly be understood from the disclosure at column 5, lines 47-55, the purpose of the "further embodiment" of Figs. 13

and 14, is to enable the optical axes to be set more steeply with respect to the middle plane. Nothing about setting the axes more steeply requires rotation about axes perpendicular to each other. It is thus respectfully submitted that the Examiner's interpretation of the prior art is not supported by nor based upon the disclosure of the prior art.

Nevertheless, in spite of the above-noted shortcomings of the prior art, as set forth hereinabove as well as those set forth in the paper filed on February 21, 2006, Applicant has yet additionally amended the rejected claims in the present application to even more clearly emphasize and amplify the patentable distinctions between the disclosure of the reference and the present invention. In this regard, reference to Figs. 13 and 14 will clearly show that the optical axis of the objective lens system is coincident with the optical axis of the eyepiece optical system. As can clearly be seen according to the teachings of the present invention and with reference, for example, to Fig. 3, the optical axes of the objective optical system and of the eyepiece optical system are inclined with respect to each other.

As is clear from Figs. 13 and 14, the optical axis of the objective lens systems is coincident with the optical axis of the eyepiece optical system. The deflection prism 3 does not cause the optical axis of objective lens system to be inclined with respect to the optical axis of the eyepiece optical system in STEINHUBER. As a result, in STEINHUBER, an image of the object is not inclined by gamma rotation (rotation about the optical axis of the eyepiece optical system) and the image of the object is not inclined by beta rotation. It is a result of the fact that the optical axis of the objective lens system of the present invention is inclined with respect to the optical axis of the

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eyepiece optical system that the image of the object is inclined by beta rotation and gamma rotation.

Accordingly, for each of the above reasons and certainly for all of the above reasons, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of claims 1 and 5 together with an indication of allowability of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the application in condition for allowance and believes that he has now done so. Applicant has rewritten a number of objected-to claims into independent form in order to render those claims allowable at least for the reasons indicated by the Examiner. Applicant has further amended the two rejected independent claims and has traversed the rejection thereof.

In this regard, Applicant has traversed the rejection of the claims 1 and 5 based on the reasons and remarks set forth in the Response filed on February 21, 2006, as well as additional remarks set forth in the present reply based upon the shortcomings of the STEINHUBER reference. Applicant has pointed out the shortcomings and deficiencies of the STEINHUBER reference and have emphasized the features of Applicant's claims not taught nor disclosed therein. Accordingly, Applicant has provided a clear evidentiary basis for the patentability of all the claims in the present application and respectfully request an indication to such effect in due course.

Applicant has further discussed the Examiner's reasons for allowance and has provided comments with respect thereto.

The amendments to the claims which have been made in this amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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